

GAMING AND AMUSEMENTS

SB 134 — Cardrooms/Dominoes

by Senator Bullard

The bill amends s. 849.086, F.S., to define and include dominoes in the list of authorized games permitted to be played at a cardroom. The bill provides a definition of dominoes to mean a game typically played with a set of 28 flat rectangular blocks, called “bones,” which are marked on one side and divided into equal parts with zero to six dots in each part.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 31-8; House 63-53

CS/CS/SB 500 — Instant Bingo

by General Government Appropriations Committee; Regulated Industries Committee; and Senator Saunders

The bill provides for the playing of instant bingo at the currently authorized locations provided in s. 849.0931, F.S. It provides new definitions that describe the tickets and the game and gives specifications for how the tickets must look, be manufactured, and the manner in which instant bingo tickets are to be sold and distributed in this state. It provides that instant bingo tickets may only be played where authorized bingo games are played.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 29-6; House 78-38

CS/CS/CS/SB's 752 and 1192— Cardrooms

by General Government Appropriations Committee; Finance and Tax Committee; Regulated Industries Committee; and Senators Geller and Fasano

The bill amends the cardroom hours of operation in section 849.086(7)(b), F.S., by allowing for operation of the cardroom on any day for a cumulative amount of 12 hours if the permitholder meets the requirements of s. 849.086(5)(b), F.S., when the facility is authorized to accept wagers on pari-mutuel events, unless extended by the local government where the facility is located. It changes the maximum bet from \$2 to \$5, authorizes a cardroom operator to award giveaways, jackpots, and prizes to players. It authorizes Texas Hold'em games without betting limits under certain circumstances. The bill provides for poker tournaments under certain conditions. It requires approval by a majority vote of the local governing body where the proposed cardroom is seeking location.

Implementation of this bill may result in an estimated increase in revenues of \$1.7 million annually. \$15,000 would be from additional occupational license fees with the remainder from gross receipt taxes. \$212,500 of this amount would be distributed to local governments where the cardrooms are located.

The bill authorizes a \$279,133 appropriation from the Pari-mutuel Wagering Trust Fund to the Department of Business and Professional Regulation for the purpose of carrying out the activities related to this act.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 29-10; House 77-38

CS/SB 1376 — Department of the Lottery

by Regulated Industries Committee and Senator Jones

The Department of Lottery (DOL) was delegated authority by the Legislature to hold copyrights, trademarks, and service marks and to enforce its rights thereto when it was created in 1987. This bill grants the DOL the authority to obtain patents as well. The bill requires the DOL to notify the Department of State in writing whenever it secures a patent, just as it must when it secures a copyright or trademark.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 98-16

CS/HB 1047 — Slot Machine Gaming

by Jobs and Entrepreneurship Council and Rep. Seiler and others (CS/CS/SB's 1038 and 218 by Finance and Tax Committee; Regulated Industries Committee; and Senators Jones, Geller, Rich, King, Argenziano, and Hill)

This bill allows for automated teller machines in the pari-mutuel facilities with slot machines but excludes them from the slot machine gaming area. It increases the number of slot machines per facility from 1500 to 2000. It requires drug testing of the slot machine facility employees.

It provides for a fixed \$2 million payment bond and clarifies that the payment of the \$3 million license fee is on the anniversary date of the issuance of the slot machine license.

It provides for temporary licensure for occupational licensees and for a single universal occupation license for employees.

It provides for additional storage facilities for the machines and possession for training purposes.

It allows for the gaming areas to be open 18 hours a day Monday through Friday and 24 hours on the weekend and allows for progressive games within the slot machine facility.

The bill excludes check cashing within the designated slot machine gaming area and also excludes the cashing of any government-issued check, third party check, or payroll check issued to an individual.

Outside of the gaming area, the bill allows for employee check cashing. These employees are prohibited from playing on the slot machines under s. 551.108(5), F.S. It allows acceptance of a check payable to a person licensed by the division, a patron, or a pari-mutuel facility.

The bill also provides for three positions and \$241,547 for the Office of the State Attorney of the 17th Judiciary circuit for the purpose of investigating and prosecuting offenses related to gaming for FY 2007-2008.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 30-9; House 61-52

BUSINESS AND PROFESSIONAL REGULATION

SB 282 — Designated Drivers

by Senator Fasano

The bill would prohibit licensed retail alcoholic beverage establishments from refusing service to a person who does not purchase alcohol because he or she is the designated driver for one or more persons who are purchasing alcoholic beverages at the establishment. The bill also provides that this provision does not excuse a retail alcoholic beverage establishment from complying with any applicable municipal or county ordinance regulating the presence of persons under 21 years of age on the premises of the establishment.

If approved by the Governor, these provisions take effect October 1, 2007.

Vote: Senate 37-0; House 117-0

SB 640 — Public Accountancy

by Senator Haridopolos

The bill deletes the October 1, 2008 deadline to apply for licensure as a CPA under a licensing option that permits applicants to substitute five years of experience for a 5th year of education requirement. The bill would make this option permanent.

The bill clarifies that the 80 hours of continuing education required for certified public accountants may include self-directed study.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 117-0

CS/CS/SB 920 — Cosmetology

by Higher Education Committee; Regulated Industries Committee; and Senators Wise and Lynn

The bill redefines the practice of cosmetology to include hair technician services, esthetician services, and nail technician services. The term “esthetician” relates to non-medical, cosmetic facial services. The bill permits a person to obtain a license as a hair technician, esthetician, or nail technician. A cosmetologist may provide all three of these specialty services. The bill defines the services that each class of license may perform. Persons licensed as a cosmetologist or as a specialist under current law may continue to hold their current license or registration.

The bill increases the minimum required education hours for licensure as a cosmetologist from 1,200 to 1,800 hours. It requires 1,000 minimum hours of education for a hair technician. It increases from 260 to 600 hours the minimum number of required hours for an esthetician and from 240 to 350 the minimum number of required hours for a nail technician. The bill permits a student who has enrolled and begun his or her education before July 1, 2008, to take the exam to be licensed as a cosmetologist upon completion of 1,200 hours of training.

The bill provides definitions of salon, provides age and education requirements, permits license by endorsement for foreign persons, and provides for certain services to be performed outside of a salon.

The bill provides for cosmetology internships through cosmetology schools and programs. It establishes the conditions and rights applicable to cosmetology schools or programs. It provides for selection, placement, eligibility, supervision, and field of study for the interns. The student’s cosmetology school is responsible for the selection and placement of the intern, and determining whether a student is eligible to become a cosmetology intern, and whether an internship sponsor meets the requirements for its educational objectives.

The bill requires that the cosmetology intern must be supervised by a licensed cosmetologist in a licensed salon. The bill would permit the cosmetology intern to only practice within the field of cosmetology in which he or she is engaged in the course of study.

The bill appropriates \$60,149 in nonrecurring funds for FY 2007-2008 to the Department of Business and Professional Regulation to begin implementation of the licensure provisions of the bill.

If approved by the Governor, these provisions take effect July 1, 2008.

Vote: Senate 38-1; House 116-1

CS/SB 2484 — Lodging and Food Service Establishments

by Regulated Industries Committee and Senators Haridopolos and Crist

The bill increases the number of voting members from five to seven for the advisory council that assists the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation on matters affecting the food service and lodging industries. The bill

provides that the Florida Restaurant and Lodging Association (formerly the Florida Hotel and Motel Association) may designate one representative to serve as a voting member of the council.

The bill changes the title of the person appointed from a college or university from “hospitality administration educator” to “hospitality education administrator,” and increases the term of this appointment from two to four years. The bill eliminates the position of “director of education,” and authorizes the director of the division to administer the Hospitality Education Program (HEP). The bill specifies that enhancement of school-to-career training programs for students interested in pursuing careers in the food service or lodging industry must be provided through the public school system utilizing a nationally recognized curriculum approved by the division.

The bill specifies the expenses that may be funded by the grants. It provides that funds distributed by the council are subject to audit by the division. The bill increases from \$150,000 to \$250,000 the maximum amount of funds that the advisory council may designate annually to support school-to-career transition programs.

It authorizes the division to adopt rules to provide criteria for grant program approval and the procedures for processing grant program applications. The bill specifies the criteria for evaluating grant program applications. It limits grants to 4-year terms, with funding provided on an annual basis.

The bill provides that administrative fines assessed by the Division of Hotels and Restaurants may be used to fund the training of licensees through the HEP.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 118-0

CS/HB 1177 — Funeral and Cemetery Industry Regulation

by Jobs and Entrepreneurship Council and Rep. Weatherford and others (CS/CS/SB 2856 by Community Affairs Committee; Regulated Industries Committee; and Senator Crist)

The bill prohibits any person regulated by chs. 395, 400, or 429, F.S., relating to hospitals, nursing homes, and related health care facilities, including hospices and assisted care communities, from owning, managing, or operating any business entity whose service or activity is licensed under ch. 497, F.S. It applies this prohibition to any officer, administrator, or board member of an entity if the entity is a firm, corporation, partnership, or any person who owns more than five percent or more of such a business entity. It provides exemptions from the prohibition.

The bill provides that limited licenses can be issued to retired professionals when there is a critical need, and defines critical need. It requires that all limited licensees must be employed by an entity licensed under ch. 497, F.S. The bill also:

- Requires non-licensed operational personnel to complete a required course on communicable disease every six years;

- Provides that the monument installation requirement apply to all cemeteries in this state, including unlicensed cemeteries;
- Provides standards for the ventilation of private and family mausoleums;
- Permits deceased persons to be interned or entombed with the cremated inurned remains of their pets;
- Permits funeral director and embalmers to complete a continuing education instruction in HIV and AIDS once every six years instead of once every two years;
- Revises requirements for licensure by endorsement for funeral directors; and
- Changes the term “monument dealer” to “monument retailer.”

The bill prohibits claims objecting to cremation against a funeral director, direct disposer, funeral establishment, direct disposal establishment or a cinerator facility under certain conditions.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 38-1; House 118-0

HB 7163 — Department of Business and Professional Regulation

by Jobs and Entrepreneurship Council and Rep. Lopez-Cantera and others (CS/SB 2398 by Regulated Industries Committee and Senator Posey)

The bill makes changes to the different statutory provisions for professions regulated by the Department of Business and Professional Regulation (department). It provides that the department may refuse to issue, renew, or revoke the certificate of a farm labor contractor who has been convicted of certain crimes.

It provides that the department is authorized to contract to collect electronic fingerprinting when fingerprints or a criminal history is required.

It provides that continuing education providers must report continuing education credits electronically within 10 days of course completion.

It provides that real estate licensees are allowed to attend Florida Real Estate Commission (FREC) disciplinary case sessions for continuing education credit and that the Division of Real Estate may grant a 6-month extension after the second renewal cycle or the effective date of the law for non-medical hardships.

It provides that the Construction Industry Licensing Board (CILB) must require one hour of laws and rules education for contractors. It provides that the CILB may adopt rules that allow applicants demonstrate financial responsibility by providing minimum credit scores or bonds.

It provides that the construction contractor licensure applicants must submit and pay for a complete set of fingerprints for the completion of a level 2 background check.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 113-0

COMMUNITY ASSOCIATIONS

CS/SB 314 — Condominiums

by Judiciary Committee and Senators Geller and Lynn

This bill substantially revises the provisions of Florida law governing the method and process of termination of a condominium. Many provisions are simply moved within the section with grammatical and editorial changes.

Substantively, the bill amends s. 718.117, F.S., to provide legislative findings related to condominium terminations and for approval of termination by less than 100 percent of owners and lienholders. It provides a written plan of termination with written notice provided to all unit owners prior to being voted upon. It provides for quarterly reports prepared by the receiver, as well as procedures to replace the receiver. It provides alternative methods for determining the allocation of proceeds from the sale of condominium property and sets forth procedures for management of the association during termination and for distribution of the proceeds. It provides for a right to contest the plan of termination and court review of the plan.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 37-0; House 117-1

CS/CS/SB 902 — Community Associations

by Judiciary Committee; Regulated Industries Committee; and Senator Jones

The bill defines the term “equity facilities club” to mean a club comprised of recreational facilities in which proprietary membership interests are sold to individuals, and prohibits any law, ordinance, or regulation that establishes certain requirements on the equity facilities club form of ownership that are not applicable to other forms of ownership.

The bill provides the following provisions and requirements regarding the rights, powers, and duties of condominium associations and their members:

- Prohibits local ordinances or regulations that limit access to a public or private beach adjacent to the condominium for the condominium or its members and guests unless the ordinance or regulation is necessary to protect the public health, safety, or natural resources;
- Limits the enforcement of provisions in the governing documents recorded on or after October 1, 2007, or amendments thereto, that require the consent or joinder of some or all mortgagees of units or any other portion of the condominium property for those mortgages; and

- Prohibits the acquiring or entering into agreements acquiring leaseholds, memberships, or other possessory or use interests within 12 months after a declaration.

The bill provides the following provisions and requirements regarding the powers and duties of a homeowners' association:

- The bill provides procedures for the revival of the declaration of covenants for non-mandatory homeowners' associations in which the covenants have lapsed;
- The bill authorizes for-profit homeowner's associations;
- All meetings of a homeowner's association regarding a final decision for the spending of association funds, and to approve or disapprove architectural decisions with respect to a specific parcel of residential property must be open to all members;
- Provides for the charging of a reasonable fee not to exceed \$150 plus photocopying and attorney's fees to a prospective purchaser or lienholder or the current parcel owner for providing good faith responses to requests for information, unless otherwise required by law;
- Any member who prevails in an action against an association and is awarded attorney's fees may be awarded an amount sufficient to cover the member's share of assessments levied to fund the association's litigation expenses;
- Permits the merger or consolidation of one or more associations;
- Establishes for the maintenance of reserve accounts in the annual budget, including how to calculate reserves and conditions for waiving the maintenance of reserve accounts;
- It provides for procedures for guarantees of assessments of parcel owners, including establishing: the guarantee if it is not included in the purchase contract or declaration, the guarantee period, the funding requirements, calculation of the guarantor's final obligation, and funding of expenses;
- An association may review and approve building plans only to the extent that it is specifically stated or reasonably inferred in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants;
- An association can only enforce setbacks specifically provided for in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, and cannot enforce setback requirements that are inconsistent with applicable county or municipal setback standards;
- Each parcel owner's rights and privileges as provided in the declaration of covenants cannot be unreasonably impaired concerning the use of the parcel, and the construction of permitted structures and improvements;
- An association cannot enforce any policy that is inconsistent with the rights and privileges of a parcel owner set forth in the declaration of covenants, whether the policy is uniformly applied or not;

- It increases from 60 days to 90 days the time period after each fiscal year that an association must prepare and complete the annual financial report; and
- It specifies additional records and documents that the developer must provide to the association's board of directors upon the creation of the association. It also provides procedures for determining the developer's financial obligation to the homeowner's association upon the creation of the association.

This bill repeals the mediation of disputes between homeowners' associations and members by the Department of Business and Professional Regulation. Such disputes would be mediated by private mediators. The mediator may require advance payment of fees and costs. The bill deletes the \$200 filing fee requirement and provisions providing for the payment of fees for a department mediator.

If approved by the Governor, these provisions take effect July 1, 2007, unless otherwise provided.

Vote: Senate 35-1; House 115-0

CS/SB 1844 — Homeowners' Associations

by Regulated Industries Committee and Senator Ring

The bill provides for lien foreclosures by homeowner's associations. It provides that a homeowner may recover from the previous owner any amount that the present owner has paid on an assessment. It provides for the assessment of interest and late fees for delinquent assessments. It provides that unpaid assessments earn interest at the rate provided in the declaration of covenants or the bylaws of the association, but that rate may not exceed 18 percent. This provision is identical to the provisions interest accruing on unpaid assessments for condominiums under ch. 718, F.S.

The bill requires that the homeowner's association must give the homeowner a written notice or demand for the past due amounts at least 45 days before bringing an action to foreclose on the lien. It specifies the addresses to which the written notice must be sent, including the parcel address and the last known address of the homeowner if it is not at the parcel address. The bill would permit the homeowner's association to recover reasonable attorney's fees in a lien foreclosure action or in an action to recover a money judgment.

The bill provides that, if unit owner files with the court a written "qualifying offer" to pay all amounts due plus interest, the foreclosure action is stayed for a period not to exceed 60 days in order to permit the homeowner to pay the delinquent amount. The bill specifies requirements for the written qualifying offer, including prohibiting the homeowner's association from adding any legal fees incurred by the association during the period of the stay. The bill permits the association to add costs to defend in a mortgage foreclosure action, in a bankruptcy proceeding in which the owner is a debtor, or in response to a filing by another party in the lien foreclosure action.

The bill provides that if the parcel owner breaches the qualifying offer, the stay is vacated and the association may proceed with the foreclosure action for the amount in the qualifying offer plus any amounts accruing after the date of the qualifying offer.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 38-1; House 113-0

CS/CS/CS/SB 2234 — Regulation of Building Inspection Professionals

by General Government Appropriations Committee; Criminal Justice Committee; Regulated Industries Committee; and Senators Wise, Lynn, and Crist

The home inspector portion of the bill provides requirements for practice or persons who engage in home inspections that include:

- Establishing definitions. The definition of “home inspector” means any person who provides or offers to provide home inspection services for a fee or other compensation. “Home inspection services” means a limited visual examination of one or more of the following readily accessible installed systems and components of a home.
- Establishing exemptions for governmental employees, certain licensed persons acting within the scope of their license who are not holding themselves out to the public as licensed home inspectors, officers appointed by the courts, utility safety inspectors, and certified energy auditors.
- Establishing licensure fees and requirements. The bill provides that the application and examination fee shall be limited to \$125, plus the per-applicant cost of the examination to the department. The examination fee is refundable if the applicant is determined ineligible to sit for the examination. The initial license fee and biennial renewal fee may not exceed \$200.
- Licensure requirements that include the completion of a 120 hour course of study approved by the Department of Business and Professional Regulation. The department to establish examination and licensing fees by rule.
- Establishing examination and licensure requirements. An applicant must satisfy good moral character requirements and satisfy certain education and experience requirements. The department is required to approve courses of study in home inspection services.
- Providing for licensure by endorsement, continuing education requirements, and the licensure of corporations and partnerships. The bill specifies the personal liabilities of corporate officers, partners, agents, employees, and owners for negligence, misconduct, or wrongful acts.
- Establishing prohibited acts that are considered misdemeanors of the first degree.
- Establishing prohibited acts that are subject to disciplinary action by the department. There is a maximum fine of \$5,000 per violation.

- Providing that the department shall reissue the license of disciplined home inspectors that have complied with final orders.
- Providing for the disclosure of certain information to consumers prior to the home inspector contracting or commencing a home inspection.
- Requiring home inspectors to maintain a commercial general liability policy in an amount not less than \$300,000.
- Establishing requirements for home inspection reports.
- Providing a grandfather clause that requires home inspectors to meet the requirements of the bill by July 1, 2010.

Mold

The mold assessor and mold remediator portion of the bill provides requirements for practice or persons who engage in business as a mold assessor or mold remediator that include:

- Establishing definitions. The definition of “mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis. “Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities of mold or mold-contaminated matter of greater than ten square feet that was not purposely grown at that location.
- Establishing licensure fees. The bill provides that the application and examination fees each have a \$125 cap, plus a per applicant cost the department may add to the examination fee if the department purchases the examination. The fee for an initial license and biennial license renewal may not exceed \$200.
- Establishing examination and licensure requirements. An applicant must satisfy good moral character requirements and satisfy certain education and experience requirements. The department is required to approve courses of study in mold assessment and remediation.
- Providing for licensure by endorsement, renewals, and continuing education requirements.
- Providing for the certification of partnerships and corporations.
- Establishes personal liability standards for individuals, partners, officers, agents, and employees.
- Establishing prohibited acts that are second degree misdemeanors for first offenses, first degree misdemeanors for second offenses, and third degree felonies for third or subsequent offenses.
- Establishing disciplinary offenses and penalties, including a maximum fine of \$5,000 per count.

- Providing a grandfather clause that requires mold assessors and mold remediators to meet the requirements of the bill by July 1, 2010.

The bill also allows a home warranty to be sold after a home inspection and mold assessment.

If approved by the Governor, these provisions take effect July 1, 2010.

Vote: Senate 38-0; House 118-0

CS/HB 259 — Mobile Home Relocation Corporation

by Economic Expansion and Infrastructure Council and Rep. Attkisson and others (CS/SB 1036 by Regulated Industries Committee and Senator Jones)

The bill specifies the terms of the notice that mobile home park owners must provide to homeowners at least six months before a change in the use of the park and of the homeowners' need to secure other accommodations. The notice must inform the homeowner that he or she may be entitled to compensation from the Florida Mobile Home Relocation Trust Fund, and that information about the trust fund is available from the Department of Business and Professional Regulation.

The bill provides that, in an action brought by the Florida Mobile Home Relocation Corporation (corporation) to collect assessed payments, the corporation may file and maintain the action in Leon County. It also provides that Leon County is the proper venue for any action to which the corporation is a party.

The bill provides for a late fee for a mobile home park owner's untimely payments to the Florida Mobile Home Relocation Trust Fund. It provides a one year time limit during which a mobile home owner who has been required to move from a mobile home park may file a claim for relocation expenses from the Florida Mobile Home Relocation Corporation.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-0

CS/HB 405 — Vacation and Timeshare Plans

by Safety and Security Council and Rep. Meador and others (CS/CS/SB 1374 by General Government Appropriations Committee; Regulated Industries Committee; and Senator Jones)

This bill makes substantive changes to the Florida Vacation Plan and Timesharing Act. It amends the formula for funding reserve accounts for capital expenditures and deferred maintenance relating to condominium conversions. It amends the purchaser to accommodation ratio from a "one-to-one purchaser to accommodation ratio" to a "one-to-one use right to use night requirement ratio."

It allows a seller to offer an out-of-state timeshare interest in a timeshare plan without filing a public offering statement under certain circumstances.

It increases security and protection of personal information of timeshare owners, deletes the provisions requiring a public offering statement to include a description of developer financing and creates recordkeeping requirements for resale service providers and lead dealers.

It amends the insurance requirements of the managing entity and deletes the requirement that the amount of insurance coverage be equal to the replacement cost of the accommodations and facilities.

The bill amends the definition of “vacation club,” to clarify that the law regulating “vacation clubs” does not apply to a business or entity simply because the term is part of the business or entity’s name.

It provides that the Governor may appoint commissioners of deeds to take acknowledgments, proofs of executions, or oaths in international waters.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 108-1

HB 7031 — Community Associations

by Safety and Security Council and Rep. Mahon and others (CS/CS/SB 396 by Judiciary Committee; Regulated Industries Committee; and Senators Margolis, Fasano, Deutch, and Lynn)

This bill increases the options of condominium, cooperative, and homeowners’ associations, with regard to insuring association property and participating in self insurance programs. Specifically, this bill amends laws relating to insurance and other issues for community associations to:

- Provide that the language relating to windstorm and self insurance (s. 718.111(11)(a), F.S.) that was added to the Condominium Act in HB 1-A during the 2007 special session on insurance applies to all residential condominiums in the state, regardless of the date of its declaration of condominium;
- Provide implementing provisions for condominium associations, cooperative associations, and homeowners’ associations to participate in self-insurance funds authorized by the 2007 special session;
- Provide authorizing legislation for the homeowners’ associations and cooperative associations to participate in the “pooled” insurance option for obtaining windstorm insurance coverage;
- Establish new budget disclosure requirements for condominium and cooperative prospectuses relating to budget changes due to increases in insurance premiums;
- Establish “good faith” estimates to be the basis for the budget;
- Preserve the developer assessment guarantees in the prospectuses and provide that unforeseen increases are not material changes to the offering circular; and

- Require new budgets to be given to purchasers at closing.

This bill also amends or creates provisions in Part VI of the Condominium Act relating to condominium conversions to:

- Expand the disclosure requirements for the improvements located on the property;
- Provide developers with additional requirements for warranties and reserve accounts;
- Conform the law by adding the terms “converter” and “as provided in this section” to modify reserve accounts in order to better differentiate between converter reserve accounts and regular reserve accounts;
- Require updated inspection reports when components are renovated or repaired; and
- Provide that the condominium owner and the association are third-party beneficiaries to the engineer and/or architect’s report.

The bill includes a self-insurance fund under the definition of covered insurance policy for residential properties for the Florida Hurricane Catastrophe Fund.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 117-0

CONSTRUCTION INDUSTRY

CS/SB 404 — Housing and Construction Industry

by Community Affairs Committee and Senators Baker and Haridopolos

The bill permits an applicant to qualify for licensure as a building code inspector or plans examiner if he or she demonstrates completion of an approved training program and a minimum of two years experience in the field of building codes inspection, plan review, fire code inspections, fire plans review of new buildings as a certified fire safety inspector, or construction. The approved training program must include 300 hours with 20 hours of instruction laws, rules, and ethics.

The bill requires that the certification examinations for building code enforcement officials must be substantially similar to those administered by the International Code Council. The bill permits building code enforcement officials employed by small counties having a population of 150,000 or less to provide building code services to another small county.

The bill limits the building code enforcement official’s bill of rights to disciplinary investigations and proceedings against licenses under ch. 468, part XII, F.S., relating to the official duties of an enforcement official. It provides that the building code enforcement official’s bill of rights does

not apply to disciplinary investigations and proceedings against other licenses that the enforcement official may hold.

The bill authorizes the Florida Building Code Administrators and Inspectors Board to take disciplinary action if the licensee fails to enforce the Florida Building Code or permitting requirements that the licensee knew were applicable, obstructs an investigation, or provides forged documents or false evidence or testimony in an investigation, or accepts free labor, services or materials or at non-competitive rates from non-family members.

The bill also requires a minimum of three hours continuing education in laws, rules, and ethics for building code enforcement officials. Proof of completion of core courses must be completed during the first two years of licensure.

The bill requires applicants for initial issuance of a certificate or registration as a contractor to submit to a statewide criminal history records check through the Florida Department of Law Enforcement. It provides that the Construction Industry Licensing Board rules pertaining to financial stability may include minimum requirements for net worth, cash, and bonding. Fifty percent of the requirement may be met by completing a 14-hour financial responsibility course.

The bill provides for the placement of manufactured housing on mobile home lots in mobile home parks, recreational vehicle parks, and mobile home condominiums, cooperatives, or subdivisions. Manufactured housing units may not be placed on a mobile home lot without the prior written approval of the mobile home park owner. Manufactured housing placed on mobile home lots must be taxed as mobile homes under s. 320.08(11), F.S., and may be subject to payments to the Florida Mobile Home Relocation Corporation as required under s. 723.06116, F.S.

The bill provides that engineers or architects may contract directly with a licensed contractor for the preparation of plans, specifications, or a master design manual addressing structural designs used in an application of building permits. It provides that a contractor is not required to prepare site plans for the design or construction of family dwellings, swimming pools, spas, or screened enclosures, or any other structure not exceeding 1,200 square feet or one story in height. The bill defines the term "master design manual," requires training for the contractor, architect, or engineer using the manual, and requires peer review of the manual by an architect or engineer.

The bill requires that the expansion of existing warehouses must comply with the fire protection system requirements in the Florida Building Code (code). It also provides that existing warehouses do not need to be updated to meet current requirements if they are in compliance with the 2001 version of the code and with the code requirements concerning sprinkler systems.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 36-2; House 117-1

CS/HB 1185 — Trespass

by Safety and Security Council and Rep. Aubuchon (CS/SB 2180 by Regulated Industries Committee and Senator Bennett)

This bill defines the term “construction site” to mean any property where there is construction for which a building permit is required.

The bill provides that it is a third degree felony to trespass at construction sites of less than one acre in size and identified as such with a sign that appears predominantly, in letters not less than two inches in height, and reads in substantially the following manner:

THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY

The bill requires that the notice be placed where the building permits for construction are located. The bill provides that it is not necessary for a construction site of less than one acre to give the notice required by s. 810.011(5), F.S., which requires that multiple no-trespassing signs must be placed not more than 500 feet apart along, and at each corner of, the boundaries of the land.

The amendment would permit homeowners to designate their community association as their agent to issue “no trespass” notices. Current law only permits homeowners or land owners to designate an actual person as their agent.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 117-0

CS/HB 1285 — Construction Liens

by Safety and Security Council and Rep. Altman (CS/SB 2768 by Regulated Industries Committee and Senators Aronberg and Crist)

This bill makes a number of changes to the Construction Lien Law. It defines the phrase “final furnishing” to mean the last date that the lienor furnishes labor, services, or materials.

It requires written notices in all direct contracts between an owner and contractor on residential projects even if the direct contract is unwritten.

The bill provides that a contractor and the property owner must agree to any bonding provisions. Any termination of a direct contract before its completion can be a basis for the recommencement process.

It provides that a recorded notice of commencement can be amended to extend the effective period, to change erroneous information in the original notice, or to add information that was omitted from the original notice. The bill provides that statement of accounts must be under oath

and that the lienor is only entitled to information regarding direct contracts under which it is providing labor, materials or services.

It provides that a lien cannot continue for more than one year after the claim of lien has been recorded, or one year after the recording of an amended claim of lien that shows a later date of final furnishing of labor, services, or materials.

The bill provides that the prevailing party is entitled to attorney's fees in a proceeding involving fraudulent liens.

It provides conformity with previous changes made in the law.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 111-0

CS/HB 1489 — Public Project Construction

by Government Efficiency and Accountability Council and Rep. Aubuchon and others
(CS/CS/SB 2376 by Governmental Operations Committee; Regulated Industries Committee; and Senator Saunders)

The bill provides requirements for the performance and payment bonds that are required for formal contracts with the state or any county, city, or political subdivision thereof, or other public authority for the construction of a public building, the prosecution and completion of a public work, or repairs of a public building or public work. The bill permits a public owner to set the amount of a payment and performance bond at the largest amount reasonably available if the contract exceeds \$250 million and a bond in the amount of the contract price is not reasonably available.

The bill provides that, if a public owner does not include the amount of the cost of design or other non-construction services in a construction-management or design-build contract, the bond may not be conditioned on performance of such services or payment to persons furnishing such services. It also provides that such a bond may exclude persons furnishing such services from the classes of persons protected by the bond.

The bill provides that a county, municipality, special district as defined in ch. 189, F.S., or other political subdivision of the state, may use a construction management entity or program management entity. The bill amends s. 287.055(9)(c), F.S., relating to the acquisition of professional services, to clarify that the specified local government entities must award construction-management and program-management contracts by use of a competitive process whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 119-0

LANDLORD/TENANT

CS/HB 1277 — Residential Tenancies

by Safety and Security Council and Rep. Patterson and others (CS/SB's 2730 and 1596 by Regulated Industries Committee and Senators Joyner and Constantine)

The bill amends the landlord's available remedies in s. 83.595, F.S., to provide that if the landlord retakes possession after the early termination of the rental agreement, the landlord has the duty to exercise good faith in attempting to relet the premises. It requires that the landlord deduct from the balance due from the tenant any rent received by the landlord as a result of the reletting. The bill revises the definition of "rental agreement" and defines the term "early termination fee."

The bill also permits landlords to recover liquidated damages or early termination fees if they are provided for in the rental agreement. The liquidated damages and early termination fees are charged when the tenant gives notice of the early termination. The bill provides that this remedy is available only, if at the time the rental agreement was made, the tenant indicated his or her acceptance of liquidated damages or early termination fees by placing his or her signature or initials next to the provision in the rental agreement. If acceptance is not indicated, the liquidated damages and early termination fee remedies may not be imposed.

The bill provides that the landlord is entitled to both the liquidated damages and early termination fee if the total charged does not exceed an amount equal to two-month's rent.

In addition to the liquidated damages and early termination fees, the bill provides that the landlord may charge the tenant for any unpaid rent and other charges due under the rental agreement through the end of the month in which the landlord takes possession of the dwelling unit; and any rental concessions that the tenant has received up to the maximum of one month's rent.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-0; House 101-14